

Public Comment at Blue Ribbon Commission Meeting July 14, 2010 at Richland Washington

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I would like to comment on the relevance of Yucca Mt. to your task. Even if Yucca Mountain eventually fails on the basis of either political or technical considerations, it is important that this Commission be guided in its recommendations by lessons learned from this two-decades-long effort. Secretary Chu has discouraged you from considering Yucca Mountain, but you must also be guided by the congressional Appropriations Act that formalized this Commission. This Act instructed the Commission to "...consider all alternatives for nuclear waste disposal". (Act 2010)

There has been some debate as to how to interpret "all alternatives" in this legislation. Does it mean to consider only **alternatives to** Yucca Mountain or all **alternatives including** Yucca Mountain. The Atomic Safety and Licensing Board of the Nuclear Regulatory Commission weighed in on this question on June 29. The Board's Order denying a petition from the Department of Energy to withdraw their Construction License Application says that "In appropriating funds for the Blue Ribbon Commission, Congress instructed the Commission to "consider all alternatives for nuclear waste disposal," necessarily including a geologic repository at Yucca Mountain." (Order, p.18, footnote 69) Specifically with respect to the request to withdraw the License Application, the Board ruled "...under the statutory process Congress created in the NWSA, which remains in effect, DOE lacks authority to seek to withdraw the Application. DOE's motion must therefore be denied." (Order, p. 20)

If this ruling is sustained by the Nuclear Regulatory Commission and if the District of Columbia Court of Appeals agrees with the Board's denial of the withdrawal, then the evaluation of the Application must proceed. This will provide valuable information on technical considerations regarding repository performance. If on the other hand the Department of Energy is allowed to withdraw the License Application by simply declaring the site "not workable", then what assurance is there that a future repository will not meet the same fate?

I am pleased to see that your Disposal subcommittee last week heard from some of the political entities (states, counties) regarding their experiences with Yucca Mountain. There are a host of more technical issues that need to be informed by the Yucca Mountain experience. How could the Multiattribute Utility Analyses that led to (sometimes different) ranking of the geological repository finalists be improved? What is the relative importance of engineered and geological barriers, and should legislation distinguish between them? What is the importance of the tectonic environment in determining the safety of a repository? Should volcanic or seismic likelihood disqualify some geographical areas from any consideration?

In conclusion it seems that the Commission needs to consider what went right and what went wrong in the Yucca Mountain saga if it is to recommend a durable path for future policy. History ignored is history repeated.

(Act 2010) Energy and Water Development and Related Agencies Appropriations Act, 2010, Pub. L. No. 111-85, 123 Stat.2845, 2864-65 (2009)

(Order) Memorandum and Order, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board, before Administrative Judges Thomas S. Moore, Chairman, Paul S. Ryerson, and Richard E. Wardwell, June 29, 2010.

<http://www.state.nv.us/nucwaste/licensing/order100629deny.pdf>

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